

AMENDMENTS TO LB 812

Introduced by Revenue Committee:

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 77-1504, Revised Statutes Supplement,  
4 2005, is amended to read:

5           77-1504 The county board of equalization may meet on or  
6 after June 1 and on or before July 25, or on or before August  
7 10 if the county has adopted a resolution to extend the deadline  
8 for hearing protests under section 77-1502, to consider and correct  
9 the current year's assessment of any real property which has  
10 been undervalued or overvalued. The board shall give notice of  
11 the assessed value to the record owner or agent at his or her  
12 last-known address.

13           The county board of equalization in taking action  
14 pursuant to this section may only consider the ~~reports~~ report of  
15 the county assessor pursuant to ~~sections 77-1315.01 and 77-1317 or~~  
16 ~~any other documented information known to any member of the board~~  
17 section 77-1315.01.

18           Action of the county board of equalization pursuant to  
19 this section shall be for the current assessment year only.

20           The action of the county board of equalization may be  
21 protested to the board within thirty days after the mailing of  
22 the notice required by this section. If no protest is filed, the  
23 action of the board shall be final. If a protest is filed, the

1 county board of equalization shall hear the protest in the manner  
2 prescribed in section 77-1502, except that all protests shall be  
3 heard and decided on or before September 15 or on or before  
4 September 30 if the county has adopted a resolution to extend  
5 the deadline for hearing protests under section 77-1502. Within  
6 seven days after the county board of equalization's final decision,  
7 the county clerk shall mail to the protester written notice of  
8 the decision. The notice shall contain a statement advising the  
9 protestor that a report of the decision is available at the county  
10 clerk's or county assessor's office, whichever is appropriate, and  
11 that a copy of the report may be used to complete an appeal to the  
12 Tax Equalization and Review Commission.

13           The action of the county board of equalization upon a  
14 protest filed pursuant to this section may be appealed to the Tax  
15 Equalization and Review Commission on or before October 15 or on or  
16 before October 30 if the county has adopted a resolution to extend  
17 the deadline for hearing protests under section 77-1502.

18           Sec. 2. Section 77-5009, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           77-5009 (1) The commission may employ legal, clerical,  
21 and other assistants as may be necessary to carry out the powers  
22 and duties of the commission.

23           (2) (a) For purposes of finding facts or conducting an  
24 investigation on behalf of the commission with regard to any  
25 matters relating to taxation or assessment, the commission may  
26 appoint by an order in writing a special master or special masters  
27 whose duties are prescribed in the order, except that the duties of

1 a special master shall not include the determination of conclusions  
2 of law or the final disposition of any case or controversy.

3 (b) Special masters may be paid a salary or fee in the  
4 discretion of the commission. If a salary is paid, the amount paid  
5 shall be fixed by the commission, and if a fee is paid, the amount  
6 paid shall be in accordance with the value of the service rendered  
7 and shall be agreed upon and approved by the commission before the  
8 special master renders service under his or her appointment.

9 (c) The claim for services rendered shall be certified by  
10 the commission and paid as provided by law for other claims against  
11 the state.

12 (3) In the discharge of his or her duties, a special  
13 master shall have all the investigative and factfinding powers of  
14 the commission. ~~in deciding any tax dispute.~~

15 (4) (a) The commission may conduct a number of  
16 factfindings or investigations contemporaneously through different  
17 special masters and may delegate to a special master the taking of  
18 all testimony bearing upon any investigation or hearing.

19 (b) The decision of the commission shall be based upon  
20 its examination of all testimony and records.

21 (c) The recommendations made by any special master shall  
22 be advisory only and shall not preclude the taking of further  
23 testimony if the commission orders further investigation.

24 (5) (a) For purposes of mediating valuation disputes  
25 between the county and the owner of the property, the commission by  
26 order may also contract with or appoint a referee or referees. The  
27 purpose of the referee is to meet with the parties and facilitate

1 agreement on facts and issues prior to the hearing on the appeal.  
2 The referee may not be called as a witness in a hearing on the  
3 merits nor may evidence of any statements made by the parties or  
4 the referee pertaining to or at the referee meeting be received by  
5 the commission in a hearing on the merits. If the parties fail to  
6 resolve their differences, ~~either a hearing before the commission~~  
7 ~~shall be held as previously scheduled or the case shall be placed~~  
8 ~~on the schedule for hearing a hearing on the merits of the appeal~~  
9 shall be held before the commission. If the parties resolve their  
10 differences, the commission shall enter an order that reflects the  
11 agreement of the parties.

12 (b) Referees may be paid a salary or fee in the  
13 discretion of the commission. If a salary is paid, the amount  
14 paid shall be fixed by the commission, and if a fee is paid, the  
15 amount paid shall be in accordance with the value of the service  
16 rendered and shall be agreed upon and approved by the commission  
17 before the referee renders service under his or her appointment.

18 (c) The claim for services rendered shall be certified by  
19 the commission and paid as provided by law for other claims against  
20 the state.

21 Sec. 3. Section 77-5019, Revised Statutes Supplement,  
22 2005, is amended to read:

23 77-5019 (1) Any party aggrieved by a final decision in a  
24 case appealed to the commission, ~~and any party aggrieved by a final~~  
25 ~~decision of the commission on a petition, or any party aggrieved~~  
26 by an order of the commission issued pursuant to section 77-5020  
27 or sections 77-5023 to 77-5028 shall be entitled to judicial

1 review in the Court of Appeals. Upon request of the county, the  
2 Attorney General may appear and represent the county or political  
3 subdivision in cases in which the commission is not a party.  
4 Nothing in this section shall be deemed to prevent resort to other  
5 means of review, redress, or relief provided by law.

6 (2)(a) Proceedings for review shall be instituted by  
7 filing a petition and the appropriate docket fees in the Court  
8 of Appeals within thirty days after the date on which a final  
9 appealable order is entered by the commission. All parties of  
10 record shall be made parties to the proceedings for review. The  
11 commission shall only be made a party of record if the action  
12 complained of is an order issued by the commission pursuant to  
13 section ~~77-1380~~, 77-1504.01, or 77-5020, or sections 77-5023 to  
14 77-5028. Summons shall be served on all parties within thirty days  
15 after the filing of the petition in the manner provided for service  
16 of a summons in section 25-510.02. The court, in its discretion,  
17 may permit other interested persons to intervene. No bond or  
18 undertaking is required for an appeal to the Court of Appeals.

19 (b) A petition for review shall set forth: (i) The name  
20 and mailing address of the petitioner; (ii) the name and mailing  
21 address of the county whose action is at issue or the commission;  
22 (iii) identification of the final decision at issue together with  
23 a duplicate copy of the final decision; (iv) the identification of  
24 the parties in the case that led to the final decision; (v) the  
25 facts to demonstrate proper venue; (vi) the petitioner's reasons  
26 for believing that relief should be granted; and (vii) a request  
27 for relief, specifying the type and extent of the relief requested.

1           (3) The filing of the petition or the service of summons  
2 upon the commission shall not stay enforcement of a decision. The  
3 commission may order a stay. The court may order a stay after  
4 notice of the application for the stay to the commission and to  
5 all parties of record. The court may require the party requesting  
6 the stay to give bond in such amount and conditioned as the court  
7 directs.

8           (4) Upon receipt of a petition the date for submission  
9 of the official record shall be determined by the court. The  
10 commission shall prepare a certified copy of the official record of  
11 the proceedings had before the commission in the case. The official  
12 record, unless limited by the written request of the petitioner,  
13 shall include: (a) Notice of all proceedings; (b) any pleadings,  
14 motions, requests, preliminary or intermediate rulings and orders,  
15 and similar correspondence to or from the commission pertaining  
16 to the case; (c) the transcribed record of the hearing before  
17 the commission, including all exhibits and evidence introduced  
18 during the hearing, a statement of matters officially noticed  
19 by the commission during the proceeding, and all proffers of  
20 proof and objections and rulings thereon; and (d) the final order  
21 appealed from. The commission shall charge the petitioner with  
22 the reasonable direct cost or require the petitioner to pay the  
23 cost for preparing the official record for transmittal to the  
24 court in all cases except when the petitioner is not required to  
25 pay a filing fee. If payment is required, payment of the cost,  
26 as estimated by the commission, for preparation of the official  
27 record shall be paid to the commission prior to preparation of the

1 official record and the commission shall not transmit the official  
2 record to the court until payment of the actual costs of its  
3 preparation is received.

4 (5) The review shall be conducted by the court for error  
5 on the record of the commission. If the court determines that  
6 the interest of justice would be served by the resolution of any  
7 other issue not raised before the commission, the court may remand  
8 the case to the commission for further proceedings. The court may  
9 affirm, reverse, or modify the decision of the commission or remand  
10 the case for further proceedings.

11 (6) Appeals under this section shall be given precedence  
12 over all civil cases.

13 Sec. 4. Section 77-5029, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-5029 On or before June 5 of each year, the county  
16 assessor of any county adjusted by an order of the commission shall  
17 recertify the county abstract of assessment to the Property Tax  
18 Administrator. On or before August 1 of each year, the Property  
19 Tax Administrator shall certify to the commission that any order  
20 issued pursuant to ~~section~~ sections 77-5023 to 77-5028 was or was  
21 not implemented by the county assessor as of June 1 of each year  
22 pursuant to section 77-1315. The Property Tax Administrator shall  
23 audit the records of the county assessor to determine whether the  
24 orders were implemented.

25 Sec. 5. Original sections 77-5009 and 77-5029, Reissue  
26 Revised Statutes of Nebraska, and sections 77-1504 and 77-5019,  
27 Revised Statutes Supplement, 2005, are repealed.

1                   Sec. 6. Since an emergency exists, this act takes effect  
2   when passed and approved according to law.